

Appl. No. 10/706,375
Atty. Docket No. 9098
Amdt. dated January 6, 2005
Reply to Office Action of October 6, 2005
Customer No. 27752

REMARKS

Claim Status

Claims 1 – 11 and 18 – 20 were pending in the present application. No additional claims fee is believed to be due. Claims 1 – 9 are withdrawn due to an earlier restriction requirement. Claims 10 and 11 have been canceled. New claims 21 and 22 have been added to depend from Claim 18 and to incorporate the limitations of Claims 10 and 11. Claims 18 – 22 are now pending in the present application. Claim 18 has been amended to correct its punctuation. The specification has been amended to eliminate circled punctuation in compliance with the Examiner's objection. It is believed these changes do not involve any introduction of new matter. Consequently, entry of these changes is believed to be in order and is respectfully requested.

Formal Matters

The Specification has been objected to because of an informality on Page 6 at line 7. A circled comma appears in the specification. The specification has been amended to remove the circled comma and to insert the appropriate punctuation in the affected sentence to place that sentence in grammatically correct form. Reconsideration and withdrawal of the objection are respectfully requested.

Response to Restriction Requirement

The Examiner has required, under 35 USC §121, election of a single disclosed invention for prosecution on the merits. Applicants previously provisionally elected with traversal to prosecute the invention designated in the Office Action of June 23, 2005 as Invention II. Pursuant to this requirement, Applicants hereby finally elect to prosecute the invention designated in the Office Action of June 23, 2005 as Invention II and have withdrawn non-selected claims. Claims 10, 11 and 18 – 20 are drawn to Invention II.

Rejection Under 35 U.S.C. § 102 Over Zander

Claims 10 and 11 have been rejected under 35 U.S.C. § 102(b) as being anticipated by Zander (US Patent No. 6, 030,331). Applicants respectfully traverse this rejection. In an effort to advance prosecution, however, Claims 10 and 11 have been canceled. Reconsideration and withdrawal of the rejection are respectfully requested.

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Rejection Under 35 U.S.C. § 102 Over Takeuchi

Claims 10 and 11 have been rejected under 35 U.S.C. § 102(b) as being anticipated by Takeuchi et al. (US Patent No. 6,054,202) (hereafter "Takeuchi"). Applicants respectfully traverse this rejection. In an effort to advance prosecution, however, Claims 10 and 11 have been canceled. Reconsideration and withdrawal of the rejection are respectfully requested.

Rejection Under 35 U.S.C. § 102 Over Trokhan

Claims 10, 18 and 19 have been rejected under 35 U.S.C. § 102(b) as being anticipated by Trokhan et al. (US Patent No. 5,895,623) (hereafter "Trokhan"). Applicants respectfully traverse this rejection.

Claim 10 has been canceled. Reconsideration and withdrawal of the rejection are respectfully requested.

Trokhan fails to teach each and every element of Claim 18 and therefore does not anticipate the claimed invention. Claim 18 is directed to a molded, textured, spunlaced, nonwoven web comprising fibers having an average length of from about 10 mm to about 60 mm. The web also comprises a surface comprising a pattern of valleys and land areas such that the valleys are interconnected and each of the valley areas have a surface area of from about 0.1mm^2 to about 8mm^2 . Trokhan teaches apertures formed from a photosensitive resin. The apertures provide for areas of the web over which few fibers extend. The Office Action puts forth that the apertures of Trokhan read upon the valleys of the current application since "there would at least be a few fibers therein in order to form a valley region as recited." The apertures of Trokhan, however, are not the equivalent of the valleys of the current application. Trokhan does not teach that the valleys between the land areas are interconnected as claimed in the current application. The apertures of Trokhan, rather, are islands within a sea of fibers and, therefore, are not interconnected. Since the apertures of Trokhan are not interconnected, they cannot be the equivalent of the valleys of the current invention. Thus, Trokhan has failed to teach each and every element of the claim. Reconsideration and withdrawal of the rejection are respectfully requested.

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Rejection Under 35 U.S.C. § 103(a) Over Daponte in view of Trokhan

Claims 18 – 20 have been rejected under 35 U.S.C. § 103(a) as being unpatentable over Daponte (US Patent No. 4,863,779) in view of Trokhan. Applicants respectfully traverse this rejection.

There are three possible sources for motivation to combine references: the nature of the problem to be solved, the teachings of the prior art, and the knowledge of persons of ordinary skill in the art. Obviousness can only be established by combining the prior art if there is some teaching, suggestion, or motivation to do so found either explicitly or implicitly in the references themselves or in the knowledge generally available to one of ordinary skill in the art. The Office makes the argument that it would have been obvious to have used fibers of the recited length of Trokhan “motivated by the fact Takeuchi et al [sic] teaches them to be known to be used in spunlaced webs, of which both references are drawn to.” The combination of the two publications, however, must still teach or suggest each and every element of the claimed elements. A combination of the respective disclosures in this instance would be improper because there is no suggestion in the references themselves to make Applicants’ claimed invention.

Daponte fails to teach or suggest each and every element of the claimed invention and therefore does not render the claimed invention obvious. Daponte teaches an improved composite material comprising an elastic web bonded to at least one other web, and preferably interrelated between two other nonwoven webs of spun-bonded or melt-blown fibers. Daponte further teaches a method of making these composite materials. Daponte fails to teach or suggest the specific length of the fibers and that the valleys between the land areas are interconnected as recited in Claim 18. The Office Action is relying on the Trokhan reference for the teaching or suggestion of the length of the fibers. There is, however, still no teaching or suggestion in either reference, alone or in combination, of valleys being interconnected.

Claim 18 requires the valleys to be interconnected. The embossing steps of Daponte’s process provide for embossed areas 26 (noted to be square valleys in the Office Action). The embossed areas of Daponte are not interconnected. Trokhan utilizes apertures which, as stated above, do not form interconnected valleys. Thus, neither reference, alone or in combination, teaches or suggests interconnected valleys. In the absence of evidence that suggests the desirability of combining references in a proposed manner, such combination is not available to preclude patentability under 35 U.S.C. § 103. *King Instrument Corp. v. Otari Corp.*, 767 F.2d 853 (Fed. Cir. 1985). Based on a

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lack of motivation to combine the two references, Applicants respectfully submit that the rejection is improper.

Daponte fails to teach or suggest each and every element of Claim 18. The addition of Trokhan does not overcome the failed teachings of Daponte. Reconsideration and withdrawal of this rejection are respectfully requested.

Rejection Under 35 U.S.C. § 103(a) Over Takeuchi in view of Daponte

Claims 18 – 20 have been rejected under 35 U.S.C. § 103(a) as being unpatentable over Takeuchi in view of Daponte. Applicants respectfully traverse this rejection.

Takeuchi teaches a wiping sheet composed of two pieces of spunlaced nonwoven fabrics containing heat-shrinkable fiber which are fusion-bonded together. The structure taught by Takeuchi prevents surface fluffing and imparts a high surface frictional strength and a high bending resistance for wiping. The structure of Takeuchi may be embossed. The resulting embossing pattern, however, would not amount to a teaching or suggestion of interconnected valleys as required by Claim 18. The Office Action utilizes Daponte to provide a teaching of valleys stating that one would “form embossments of the size recited motivated by the fact that Daponte teaches they are known to be used in spunlaced webs, of which both references are drawn to.” Daponte, however, fails to provide a teaching or suggestion of the interconnected valleys that Applicants claim.

The embossing steps of Daponte’s process provide for embossed areas 26 (noted to be square valleys in the Office Action). The embossed areas of Daponte are not interconnected. As shown in Figure 2A, the embossed areas 26 are separated from each other by gathers 16a and pleats 20a. Thus, neither reference, alone or in combination, teaches or suggests interconnected valleys. Based on a lack of motivation to combine the two references, Applicants respectfully submit that the rejection is improper.

Takeuchi fails to teach or suggest each and every element of Claim 18. The addition of Daponte does not overcome the failed teachings of Takeuchi. Reconsideration and withdrawal of this rejection are respectfully requested.

New Claims 21 and 22

With regard to new Claims 21 and 22, Applicants would like to assert these claims are patentable over the art currently cited. Zander, Takeuchi, Trokhan and Daponte, all

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fail to teach or suggest, either alone or in combination, each and every element of the claimed invention.

Applicants respectfully assert that Claim 21, which is directed to a product-by-process, covers a product web that is neither the same as or obvious over the cited art regardless of the process utilized. Recall, Claim 21 is dependent upon Claim 18 and its web is not the same as or obvious over the substrates cited in the prior art. The cited references all fail to teach or suggest the interconnected valleys as required by Claim 18. As each reference fails to teach or suggest the interconnected valleys there would be no motivation to combine the references as one of ordinary skill would fail to arrive at the claimed invention.

Claim 22 is directed to a wipe comprising the web of Claim 18. As Claim 18 is not the same as or obvious in light of the cited art, Applicants submit that a wipe comprising the web of Claim 18 would also not be the same as or obvious in light of the cited art.

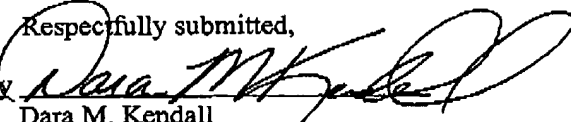
Applicants respectfully request allowance of Claims 18 – 22.

Conclusion

In light of the above remarks, it is requested that the Examiner reconsider and withdraw the rejection under 35 U.S.C. §§ 102 and 103. Early and favorable action in the case is respectfully requested.

This response represents an earnest effort to place the application in proper form and to distinguish the invention as now claimed from the applied references. In view of the foregoing, reconsideration of this application, entry of the amendments presented herein, and allowance of Claims 18 – 22 are respectfully requested.

Date: Jan 06, 2006
Customer No. 27752

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